

NICK MAZANEC
Office of the Montana State Auditor,
Commissioner of Securities and Insurance (CSI),
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Attorney for the CSI

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE,
OFFICE OF THE MONTANA STATE AUDITOR**

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|--|---|------------------------------|
| IN THE MATTER OF: |) | CASE NO. INS-2015-313 |
| |) | |
| AXA EQUITABLE LIFE & ANNUITY COMPANY, |) | CONSENT AGREEMENT AND |
| |) | FINAL ORDER |
| |) | |
| Respondent. |) | |
| |) | |

This Consent Agreement (Agreement) is entered into by the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101 et seq. (Code), and AXA Equitable Life & Annuity Company (Respondent). The corresponding Final Order (Order) is issued by the authority of the Commissioner of Securities and Insurance, Office of the Montana State Auditor (Commissioner).

RECITALS

WHEREAS, Respondent is a licensed Montana insurer, Certificate of Authority # 5315;

WHEREAS, an audit of Respondent's 2014 premium tax statement indicated that Respondent owed an additional \$63 in premium tax;

WHEREAS, Respondent was first notified of the deficiency on March 30, 2015;

WHEREAS, over the ensuing several months, the CSI repeatedly notified Respondent of the deficiency, during which time Respondent was largely unresponsive:

WHEREAS, Respondent finally paid the premium tax obligation in late December of 2015;

WHEREAS, pursuant to § 33-2-705(1) and (2), an insurer shall pay taxes on net premiums for the prior year no later than March 1;

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the CSI and Respondent hereby agree to settle this matter pursuant to the following terms and conditions:

STIPULATIONS AND CONSENTS

I. Respondent stipulates and consents to the following:

A. Respondent admits to the allegations in the Recitals, above.

B. Within ten business days from the execution of this Agreement,

Respondent shall pay the State of Montana an administrative penalty of five thousand dollars (\$5,000.00). The payment shall be in the form of check made payable to the State of Montana, and sent to:

Montana State Auditor
c/o Darla Sautter
840 Helena Avenue
Helena, MT 59601

C. Respondent agrees to timely pay all future premium taxes due to the State of Montana. Respondent also agrees to pay or respond to any notices of delinquent premium taxes from the CSI within 30 days.

D. Respondent fully and forever releases and discharges the CSI, its employees, and its agents from any and all actions, claims, causes of action, demands, or

expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement.

E. Respondent specifically and affirmatively waives a contested case hearing and all rights to appeal under the Montana Administrative Procedure Act, Mont. Code Ann. § 2-4-101 et seq., and elects to resolve this matter on the terms and conditions set forth herein

F. Respondent acknowledges that this Agreement is signed by its authorized representative, who has read and understands each term of this Agreement.

G. Respondent acknowledges that it enters into this Agreement voluntarily and without reservation.

II. All parties to this Agreement stipulate and consent as follows.

A. The CSI has jurisdiction over the subject matter of this Agreement.

B. This Agreement is entered without adjudication of any issue, law, or fact. It is entered solely for the purpose of resolving the CSI's investigation and allegations, and is not intended to be used for any other purpose.

C. The CSI warrants and represents that so long as Respondent complies with the terms of this Agreement, the CSI will not bring any further action against Respondent arising from facts known to the CSI as of the date of the Agreement relating to the Recitals.

D. The applicable statute of limitations is tolled for two years from the date of execution of this Agreement with regard to the allegations set forth above. In the event Respondent violates the terms of this Agreement at any time before the applicable statute of limitations has run, the CSI reserves the right to seek any additional administrative penalties or further regulatory action.

E. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent, or representative of the CSI to induce Respondent to enter into this Agreement.

F. This Agreement may not be modified orally, and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective

G. This Agreement shall be incorporated into and made part of the attached Order issued by the Commissioner.

H. The Order will be an order of the Commissioner and is effective upon signing. The CSI has jurisdiction over the enforcement of the Order, and failure to comply with it may constitute a separate violation of the Code, pursuant to §§ 33-1-317 and 318, and may result in subsequent legal action by the CSI.

I. This Agreement shall be effective upon signing of the Order.

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J. This Agreement and Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.


DATED this 8th day of April, 2016.

**OFFICE OF THE MONTANA STATE
AUDITOR, COMMISSIONER OF
SECURITIES AND INSURANCE**

By: 
NICK MAZANEC
Attorney for the CSI

DATED this 22 day of March, 2016.

**AXA EQUITABLE LIFE &
ANNUITY COMPANY**

By: 
Name: FRANK ACIERNO
Its: VICE PRESIDENT

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 33-1-101 et seq ,
and upon review of the foregoing Consent Agreement, and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and
Respondent AXA Equitable Life & Annuity Company, is adopted as if set forth fully herein.

DATED this ____ day of _____, 2016.

MONICA J. LINDEEN
Commissioner of Securities and Insurance,
Office of the Montana State Auditor

By: _____
ANDREW POSEWITZ
Deputy State Auditor

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and § 33-1-101 et seq.,
and upon review of the foregoing Consent Agreement, and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and
Respondent AXA Equitable Life & Annuity Company, is adopted as if set forth fully herein.

DATED this 8 day of April, 2016.

MONICA J. LINDEEN

Commissioner of Securities and Insurance,
Office of the Montana State Auditor

By: 
ANDREW POSEWITZ
Deputy State Auditor